

Ronald D. Schoen, Trustee
Box 216
Payette, ID 83661
Tel No. (208) 642-9820
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U.S. BANKRUPTCY COURT
DISTRICT OF IDAHO

APR 16 1997

9:20 P.M. REC'D
LODGED _____ FILED *MA*

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In re:

TERRY HIPWELL

Debtor.

Chapter 12

Case No. 96-02095

TRUSTEE'S REPORT

Scheduled for 1:30 p.m. on April 16, 1997 is the confirmation hearing on the above-named Debtor's Amended Chapter 12 Plan that was filed March 31, 1997. The trustee hereby submits his report on the plan filed.

1. ARTICLE III (A)

The plan should provide that legal fees due Debtor's counsel, upon Court approval, be paid thru the trustee in annual payments of \$5,000.00 with the first payment commencing February 1, 1998 and on the same day and month of each year thereafter until paid in full.

2. ARTICLE III (B)(2)

The plan provides IRS has a priority claim for \$12,082.04. This amount should be \$12,082.40.

3. ARTICLE III (B)(3)

The plan provides Alejandro Ponce has a priority claim for \$1,713.00. The name of this creditor is Alejandro Valladares-Ponce for whom Idaho Legal Aid Services, Inc. filed a priority claim on November 22, 1996 for \$1,712.75.

4. ARTICLE III (B)(4)

The plan provides Armondo V. Rivera has a priority claim for \$2,176.00. The name of this creditor is Armando Rivera-Vega for whom Idaho Legal Aid Services, Inc. filed a priority claim on November 22, 1996 for \$2,176.00.

5. ARTICLE III (C)(1)

The plan provides Payette Canyon County has an allowed secured claim for \$6,681.00. The plan should provide the Payette County Tax Collector has an allowed secured claim for \$6,680.96.

6. ARTICLE III (C)(2)

The plan provides the Canyon County Assessor has an allowed secured claim for \$12,469.00. The plan should provide the Canyon County Tax Collector has an allowed secured claim for \$12,468.50.

7. ARTICLE III (D)(2)

It is the opinion of the trustee that Land View Fertilizer holds a security interest in the following cash collateral:

1996 Wheat:

Sold to Reed Grain:

25,795.29 bu @ \$3.08

\$ 79,599.43

Sold to Evans Grain:

1,423.48 bu @ \$3.12

4,438.07

Sold to Simplot Livestock:

458,880# @ \$4.64 cwt

21,305.07

105,342.57

1995 Sugar Beets:

Three checks from TASCO dated

3/22, 6/27 and 6/29/96

11,155.91

116,498.48

Less seed lien of Reed Grain paid
by trustee.

- 11,962.18

NET VALUE OF CASH COLLATERAL

\$104,536.30

7. **ARTICLE III (D)(2)(cont'd)**

For budget purposes, the trustee has provided that Land View's claim for \$104,536.30 be paid at 9% interest with interest commencing upon the date of confirmation. If confirmation is May 1, 1997, the trustee has projected this claim to be paid in five annual payments of \$26,334.40 with the first payment commencing February 1, 1998 and on the same day and month of each year thereafter until paid in full.

8. **ARTICLE III (D)(3) & (E)(4)**

TASCO has filed an objection to the plan. The trustee is in agreement with the plan whereby TASCO should not be paid until the state court action is resolved. If this Chapter 12 case is allowed to proceed, the trustee intends to file an objection to TASCO's claim. Even though this Court ruled in favor of TASCO regarding their right to set off, TASCO still refuses to amend the claim filed September 24, 1996 for \$105,561.09.

9. **ARTICLE VI**

The plan provides trustee fees shall be in accordance with §1202(d). This should read 28 USC § 586(e)(1)(B).

10. **ANALYSIS OF ESTIMATED PLAN PAYMENTS**

The trustee has been advised that The Travelers Insurance Co has agreed that their allowed secured claim for \$480,030.45 be paid at 9.625% interest in ten annual payments of \$58,810.00 with the first payment commencing February 1, 1998 and on the same day and month of each year thereafter thru February 1, 2007. A balloon payment for the remaining principal and interest is due February 1, 2008. Page 5 of this report reflects the trustee's analysis of estimated plan payments due this creditor and all other creditors provided for in the plan.

11. BUDGETS

The budgeted expenses on pages 15 and 16 of the plan fail to include pesticides and sprays for \$18,000. The addition of this amount to all other expense line items equals the \$186,000 shown on page 16 of the plan.

Page 16 of the plan reveals the miscellaneous expense amounts will be used by the Debtor to fund plan payments in the event of a short fall. For feasibility purposes, the trustee has changed the amount of \$30,000 for 1999 to \$25,000 and has changed the amount of \$28,000 for the years of 2000 and 2001 to \$23,000. The trustee has developed the following cash flow:

	2/1/97 - 2/1/98	2/1/98 - 2/1/99	2/1/99 - 2/1/00	2/1/00 - 2/1/01	2/1/01 - 2/1/02
<u>INCOME</u>					
Crops	334,400	334,400	334,400	334,400	334,400
ASCS	10,600	10,600	10,600	10,600	10,600
Cash collateral (1)	<u>112,374</u>				
	<u>457,374</u>	<u>345,000</u>	<u>345,000</u>	<u>345,000</u>	<u>345,000</u>
<u>DISBURSEMENTS</u>					
Crop expenses	186,000	186,000	186,000	186,000	186,000
Living expenses	20,000	20,000	20,000	20,000	20,000
Asset purchases	16,500				
Miscellaneous		13,500	25,000	23,000	23,000
Plan payments:					
Atty fees	5,000	5,000	5,000	5,000	5,000
Priority	4,132	4,132	4,132	4,132	4,132
Secured	107,664	107,664	107,664	107,664	122,926
Unsecured			2,000	2,000	2,000
Est 7% trustee fees	<u>8,175</u>	<u>8,175</u>	<u>8,315</u>	<u>8,315</u>	<u>9,383</u>
	<u>347,471</u>	<u>344,471</u>	<u>358,111</u>	<u>356,111</u>	<u>372,441</u>
INCOME/EXPENSES	109,903	529	- 13,111	- 11,111	- 27,441
CARRY-OVER:					
FROM PRIOR YEAR	<u>-0-</u>	<u>109,903</u>	<u>110,432</u>	<u>97,321</u>	<u>86,210</u>
TO NEXT YEAR	<u>109,903</u>	<u>110,432</u>	<u>97,321</u>	<u>86,210</u>	<u>58,769</u>
(1)					
Item 7 - page 2	104,536				
1996 ASCS	<u>7,838</u>				
	<u>112,374</u>				
Already paid to debtor	<u>- 31,650</u>				
Available	<u>80,724</u>				

Terry Hipwell
30932 Shelton Road
Parma, ID 83660

Petition: Aug 23'96
Plan Filed: Mar 31'97
Confirmed:

Atty: Howard Foley
Five-Year Plan
Case No. 96-02095

TRUSTEE'S ANALYSIS OF ESTIMATED PLAN PAYMENTS

<u>CREDITOR</u> <u>PRIORITY</u>	<u>ALLOWED</u> <u>CLAIM</u>	<u>PLAN</u> <u>PAYMENT</u>	<u>1st PAYMENT</u> <u>DUE DATE</u>	<u>NO.</u> <u>PAYMENTS</u>
Idaho Tax Commission	1,345.22	269.04	2/01/98	5
IRS	12,082.04	2,416.48	2/01/98	5
Alexander Ponce	1,712.75	342.60	2/01/98	5
Armando Rivera	2,176.00	435.20	2/01/98	5
Felipe Zavala	1,400.00	280.00	2/01/98	5
Fivel Perez	1,945.00	389.00	2/01/98	5
<u>SECURED</u>				
Payette County	6,680.96	1,850.00 balance	2/01/98	4
Canyon County	12,468.50	3,450.00 balance	2/01/98	1
Travelers Insurance	480,030.45	58,810.00 balance	2/01/02	4
Idaho Tax Commission	984.79	220.00 balance	2/01/98	1
Land View Fertilizer	104,536.30	26,334.40	2/01/02	4
Case Credit	32,634.82	7,000.00	2/01/98	1
John Deere	47,000.00	10,000.00	2/01/98	5
		est 25,262.00	2/01/02	6
<u>UNSECURED</u>				
General	6,000.00	2,000.00	2/01/00	approx 3

12. **CONCLUSION**

The budgets on page 4 and the plan payment schedule on page 5 reveals this plan to be feasible only if the Debtor is allowed to use cash collateral and if no payments have to be made to TASCO. If the plan is confirmed and the Debtor is able to complete the five-year plan, then the Debtor will receive relief in the form of plan payments and trustee fees that do not have to be paid in the sixth year in the approximate amount of \$67,676. If the Debtor does not have the use of cash collateral and is required to make plan payments to TASCO, then the plan is not feasible and the case should be dismissed. In the event of dismissal, the trustee contends this Court retains jurisdiction of the funds in the possession of the trustee and that these funds will be disbursed by the trustee upon proper motion to the Court and allowed by the Court.

DATED This 14th day of April, 1997.


Ronald D. Schoen, Trustee

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UNITED STATES BANKRUPTCY COURT
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In re:)	Chapter 12
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TERRY HIPWELL)	Case No. 96-02095
)	
Debtor.)	CERTIFICATE OF SERVICE

NO. OF PAGES INCLUDING THIS PAGE = 7.

I hereby certify a true and accurate copy of the **TRUSTEE'S REPORT** was sent via facsimile transmission to the following:

	<u>FAX NUMBER</u>
Judge Jim Pappas	334-1334
Office of the U. S. Trustee	334-9756
Howard Foley	888-5130
Jeffrey E. Rolig	733-5553
John D. Harrington	466-4405
Ramona S. Neal	388-1201
Richard C. Boardman	344-9836
Les Bock	344-9140

DATED This 14th day of April, 1997.


Ronald D. Schoen, Trustee